

REMARKS

I. Summary of the Office Action

Claims 1-26, 28-78, 84-91, and 181-447 are pending in this application.

Claims 1-26, 28-35, 41-78, 84-88, 91, 181-218, 220, 223-265, 268-305, 311-352, 354, 356-393, 399-440, 442, and 444-447 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Etheredge U.S. Patent No. 6,172,674 (hereinafter "Etheredge") in view of Alexander et al. U.S. Patent No. 6,177,931 (hereinafter "Alexander").

Claims 36-40, 89, 90, 219, 221, 222, 266, 267, 306-310, 353, 355, 394-398, 441, and 443 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Etheredge in view of Alexander and Williams et al. U.S. Patent No. 5,977,964 (hereinafter "Williams").

II. Summary of Applicants' Reply to the Office Action

The Examiner's rejections are respectfully traversed. Applicants respectfully submit that this application is allowable over the references of record.

III. The Rejection of the Claims

The Examiner has rejected independent claims 1, 184, 272, and 360 under 35 U.S.C. § 103(a) over Etheredge in view of Alexander. Applicants respectfully traverse this rejection.

Applicants' independent claims 1, 184, 272, and 360 are directed towards a television program guide system that displays a "hot list" of programs to a user. The programs identified in the hot list are substantially currently available for viewing by the user and are included in the hot list based on the preference profile associated with the user.

A substantially currently available program is one that is currently broadcasting, about to start (e.g., within a relatively short predetermined period of time on the order of minutes or seconds), or has just started. The user may tune to a substantially currently available program in order to begin viewing it. An illustrative hot list that may be displayed is shown, for example, in FIG. 25 and is described at pages 31 and 32 of applicants' specification.

The Examiner correctly acknowledges the novelty of applicants' approaches over the combination of Etheredge and Alexander in concurring that "[neither] Etheredge nor Alexander teaches that all of the programs identified in the hot list are

substantially currently available for viewing by the user" (Office Action, page 16). However, the Examiner has taken Official Notice that such a feature is well known in the art. The Examiner therefore contends that "it would have been well known to show programs which are ... available at the current time" (Office Action, page 3). Applicants respectfully submit that the Examiner's Official Notice is not justified.

The Examiner may only take Official Notice of facts outside of the record which are "capable of instant and unquestionable demonstration as being 'well known' in the art" (MPEP § 2144.03). Providing programs which are substantially currently available may be performed a number of ways depending on the desired approach. There is no objective basis to conclude that the particular approach of "displaying a hot list of programs on the user television equipment, wherein all of the programs on the hot list are based on the preference profile and are substantially currently available for viewing by the user" is well known as suggested by the Examiner. Applicants also respectfully submit that the absence from the prior art already of record of "displaying a hot list of programs on the user television equipment, wherein all of the programs on the hot list are based on the preference profile

and are substantially currently available for viewing by the user," as opposed to the hot list identifying all programs that are indicative of the user's television programming interests, belies the Examiner's assertion of Official Notice. If the Examiner insists on maintaining this rejection, applicants respectfully request that the Examiner provide a reference in support of the Official Notice used in rejecting claims 1, 184, 272, and 360, as is applicants' right under MPEP § 2144.03.

Accordingly, applicants respectfully submit that independent claims 1, 184, 272, and 360 are patentable over Etheredge and Alexander, either alone or in combination. Dependent claims 2-26, 28-78, 84-91, 181-183, 185-271, 273-359, and 361-447 depend from claims 1, 184, 272, and 360 and are allowable at least because claims 1, 184, 272, and 360 are allowable. Applicants therefore request that the rejection of these claims be withdrawn.

IV. Conclusion

The foregoing demonstrates that claims 1-26, 28-78, 84-91, and 181-447 are allowable. Reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip R. Poh", is written over a horizontal line.

Philip R. Poh
Reg. No. 51,176
Agent for Applicants
FISH & NEAVE
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000
Fax: (212) 596-9090